

Thursday, July 24, 2008

House Meets At...	Votes Predicted At...
10:00 a.m. For Legislative Business	Last Vote: 7:00 – 8:00 p.m.
Ten “One Minutes” Per Side	

Any anticipated Member absences for votes this week should be reported to the Office of the Majority Whip at 226-3210.

Floor Schedule and Procedure

- **H. Res. 1367–Rule providing for consideration of motions to suspend the rules (Rep. Welch - Rules):** The closed rule provides that it shall be in order at any time on the legislative day of Thursday, July 24, 2008, for the Speaker to entertain motions that the House suspend the rules relating to the bill (H.R. 6578) to provide for the sale of light grade petroleum from the Strategic Petroleum Reserve and its replacement with heavy grade petroleum. Debate on the rule will be managed Rep. Welch, and consideration will proceed as follows:
 - One hour of debate on the rule.
 - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to vote yes.**
 - Vote on adoption of the rule. **Democrats are urged to vote yes.**
- **Suspension Bill:** Today, the House will consider one bill on the Suspension calendar. Bills considered on the Suspension calendar are debatable for 40 minutes; may not be amended; and require a two-thirds vote for passage. If a recorded vote is requested, it will be postponed.
 1. **H.R. 6578** – Consumer Energy Supply Act of 2008 (Rep. Lampson – Energy and Commerce)

- **H. Res. 1362–Rule providing for consideration of the Senate amendment to H.R. 5501 - Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Rep. Hastings (FL) - Rules):** The closed rule provides for consideration of the Senate amendment to H.R. 5501. The rule makes in order a motion by the chairman of the Committee on Foreign Affairs to concur in the Senate amendment. The rule provides for one hour of debate on the motion equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. Debate on the rule will be managed Rep. Hastings (FL), and consideration will proceed as follows:
 - One hour of debate on the rule.
 - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to vote yes.**
 - Vote on adoption of the rule. **Democrats are urged to vote yes.**

- **H.R. 5501 - Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Rep. Berman – Foreign Affairs):** Pursuant to the rule, debate on the bill will be managed by Foreign Affairs Committee Chair Rep. Howard Berman, or his designee, and will proceed as follows:
 - One hour of debate on the bill.
 - Vote on final passage of the bill.

- **H. Res. 1368 - Relating to the House procedures contained in section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Rep. Hastings (FL) - Rules):** The closed rule provides that section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 shall not apply during the remainder of the 110th Congress. Debate on the rule will be managed Rep. Hastings (FL), and consideration will proceed as follows:
 - One hour of debate on the rule.
 - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to vote yes.**
 - Vote on adoption of the rule. **Democrats are urged to vote yes.**

- **Postponed Votes on H.R. 3999 - The National Highway Bridge Reconstruction and Inspection Act (Rep. Oberstar – Transportation & Infrastructure):** Postponed votes on H.R. 3999 will proceed as follows:
 - Vote on Childers Amendment.
 - Possible debate and vote on a Republican motion to recommit the bill.
 - Vote on final passage of the bill.
- **Postponed Suspension Vote:**
 1. **H.Res. 1296** – Supporting the designation of a National Child Awareness Month to promote awareness of children's charities and youth-serving organizations across the United States and recognizing their efforts on behalf of children and youth as a positive investment for the future of our Nation (Rep. Calvert - Education and Labor)

Bill Summary and Key Issues

H.R. 5501 - Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008

Funding: Authorizes \$48 billion for HIV/AIDS, tuberculosis, and malaria, allowing for scale-up of these programs over the course of fiscal years 2009-2013. Also authorizes \$2 billion for Indian health, water, and law enforcement services.

Targets: The bill sets out targets including:

- Preventing 12 million new HIV infections (this target may rise over time);
- Treating millions of people with HIV/AIDS: Under this bill, treatment goals will rise above 2 million persons as funding for bilateral HIV/AIDS programs increase and if per-person comprehensive costs of treatment decrease. This should ensure a treatment target of at least 3 million people – the same target in the bill approved by the Foreign Relations Committee;
- Supporting care for 12 million people infected with or affected by HIV/AIDS, including support for 5 million orphans and children (this target may rise over time);
- Helping countries in their effort to achieve 80 percent access to counseling, testing and treatment to prevent the transmission of HIV from mother to child;

- Helping countries to achieve access for care for children with HIV in proportion to their numbers among those who are infected with HIV; and
- Helping countries to expand their health workforce with the goal of training and retaining at least 140,000 new health care workers and paraprofessionals, especially nurses and doctors, with the objective of helping them achieve staffing levels recommended by the World Health Organization.

Earmarks: A congressionally mandated study by the Institute of Medicine, as well as one by the Government Accountability Office, concluded that earmarks in the original 2003 Act had unduly limited flexibility for the people implementing HIV/AIDS programs. A 10 percent allocation for orphans and vulnerable children is retained. The bill also states that “more than half” of funding appropriated for bilateral HIV/AIDS assistance go for treatment and care – broadly defined to include antiretroviral treatment, monitoring, care for opportunistic infections, nutrition, and other essential HIV/AIDS related medical care. That requirement will be easily met without affecting country-based strategies. There are no earmarks allocating prevention spending.

Prevention: The bill prioritizes prevention as the most critical intervention in slowing the pandemic. Like the House version, it requires a balanced approach to the prevention of the sexual transmission of HIV, and it includes a mandatory report regarding the allocation of prevention spending in countries with generalized epidemics and a justification to Congress if, in the country strategy, less than half of planned sexual prevention efforts go toward activities promoting abstinence, the delay of sexual debut, monogamy, fidelity, and partner reduction.

Other major provisions: Other key components of the bill include:

- An increased focus on women and girls and the factors that put them at greater risk for HIV in many countries. The bill also stresses the importance of preventing gender-based violence.
- Increased coordination between HIV/AIDS and nutritional support is mandated, as is a strategy to more thoroughly integrate HIV/AIDS, tuberculosis, and malaria programs with the broader U.S. development agenda.
- Harmonization is emphasized, in terms of working with other partners and in terms of improved internal coordination.
- Support for health capacity (both staff levels and infrastructure) is strengthened.
- Operations research is significantly expanded, as is oversight of U.S. bilateral programs.
- Puts global AIDS programs on the road to greater sustainability by focusing on country-driven national strategies and by allowing for, though not mandating, the creation of compact agreements.

- In order to sustain the compromise reached in the House, this bill does not specifically address the issue of family planning or alter the “Prostitution pledge” in current law, which is the subject of ongoing litigation.
- Includes care within the “conscience clause.”
- Like its House counterpart, the bill authorizes \$9 billion for malaria and tuberculosis over five years; together these two diseases claim over 2.6 million lives a year. It also authorizes \$2 billion for the Global Fund to Fight AIDS, Tuberculosis, and Malaria for FY 2009, while requiring subsequent benchmarks regarding transparency and accountability, with a withholding penalty if these benchmarks are not met.
- HIV Visa Ban: Removes statutory bar to HIV-infected persons from receiving visas to come to the United States, either as immigrants, students, or tourists. This international embarrassment prevents many international AIDS meetings from being held on U.S. soil and results in situations where even a guest for the State of the Union who is HIV-infected must seek a waiver for admission. The CBO estimated that this provision will cause direct spending (immigrants drawing federal benefits). The bill offsets this spending by raising a visitor’s visa application fee.

H. Res. 1368 - Relating to the House procedures contained in section 803 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003

The Medicare Modernization Act created a new “measure” of Medicare’s finances, known as the “45 percent trigger.” This new measure was inserted during Medicare Modernization Act of 2003 conference negotiations, despite being in neither the House- nor Senate-passed bills. Rather than being a meaningful measure of Medicare’s fiscal status, the trigger is designed to set off a false alarm and arbitrarily limit general revenue financing, thus weakening Medicare overall.

Under the trigger, when general revenues are projected to exceed 45 percent of overall Medicare spending within a 7-year window, processes are set into motion allowing for expedited floor consideration of legislation designed to cut benefits, shift costs to beneficiaries, or raise payroll taxes. The trigger is flawed because there is no policy rationale for the 45 percent limitation on general revenue financing.

There are no limits on other programs financed with general revenues, such as defense or education, and the Medicare chief actuary has testified that the 45-percent threshold has no underlying analytical basis. The House-passed Children’s Health and Medicare Protection Act (CHAMP) included repeal of the trigger. The recently enacted Medicare Improvements for Patients and Providers Act (MIPPA) generates changes in program financing sufficient to delay onset of the trigger until 2014.

Beginning in early September pursuant to Section 803 (the trigger provision), until a qualifying bill is considered and disposed of on the House Floor, a motion to discharge can be offered without notice every single day, completely disrupting the House Floor and the agenda. H. Res. 1368 would turn off that process for the remainder of the 110th Congress.

Medicare's Financing. Current law establishes three main sources of financing for Medicare: payroll taxes, general revenues, and beneficiary premiums. Medicare Part A (inpatient hospital and post-acute care) is financed by payroll taxes. Part B (physician and outpatient services) and Part D (the Medicare drug benefit) are both financed by a combination of general revenues and beneficiary premiums. State contributions also help to fund Part D. Part C, otherwise known as Medicare Advantage, covers payments to HMOs and other private plans. Funding is drawn from both Parts A and B, so plan overpayments erode solvency and raise premiums for all beneficiaries.

Calculating the 45 Percent Threshold. The MMA requires the Medicare Trustees to estimate in their annual report how much of Medicare will be financed with general revenues in the current and subsequent six years. General revenues are calculated by subtracting "dedicated financing sources" (defined as payroll taxes, beneficiary premiums, income from taxation of Social Security benefits, and state transfers for the drug benefit) from overall Medicare spending. If general revenues are projected to exceed 45 percent of overall program spending in the seven-year window -- and this finding occurs in two consecutive Trustees reports -- then a "Medicare Funding Warning" is issued.

Medicare Funding Warning Triggers Presidential Proposals. Once a "Medicare Funding Warning" is issued, the President must propose legislation in his next budget to move general revenues back under the threshold. In order to meet that goal, legislation would need to cut benefits and provider payments, shift more of the burden to beneficiaries in the form of higher cost-sharing, or rely more heavily on payroll taxes. Congress must then consider the President's proposals under an expedited timetable.

The 2006, 2007 and 2008 Trustees Reports. The 2006, 2007 and 2008 Trustees Reports projected that general revenues would exceed 45 percent within their respective seven-year windows, so Medicare Funding Warnings have been issued. In response to the funding warning, the President proposed legislation earlier this year that would hit beneficiaries for higher premiums, while leaving gross overpayments to private health plans untouched. If the excessive overpayments to private plans had been eliminated, there would be no funding warning in this year's report.

"45 Percent Trigger" is Arbitrary Measure. Medicare was created because the private markets would not meet the need, and the nation viewed health care for seniors as a priority that benefits beneficiaries and their families alike. The program was designed to be substantially financed by general revenues rather than payroll taxes. The fact that a sizeable portion of Medicare's financing comes from general revenues is no more problematic than the fact that 100 percent of the defense budget comes from general revenues. And no explanation has ever been provided as to why 45 percent is the "right" amount of general revenue financing for Medicare.

Trigger Limits Options and Reveals Republicans' Ideological Preference to Dismantle Medicare. Regardless of the measure used to examine Medicare's financial health, whenever solvency has fluctuated in years past, the Congress always took the necessary steps to strengthen the program. The trigger demonstrates an ideological preference to end Medicare as we know it by limiting general revenue financing. The legislation actually encourages proposals that increase payroll taxes. This flawed formula creates a skewed world where certain policy solutions are favored over others.

President's Budget Reveals True Agenda: Cut Funds for Medicare. The President's budget for fiscal year 2009 proposes automatic annual cuts to provider payments until general revenues get back under the threshold. The budget also proposes nearly half a trillion in cuts over ten years. While the President's trigger proposal failed to match the bluster in the budget, the budget reveals the true long-term agenda behind the trigger – to drain Medicare of resources and shrink the program.

H.R. 3999 - The National Highway Bridge Reconstruction and Inspection Act of 2008

H.R. 3999, the "National Highway Bridge Reconstruction and Inspection Act of 2008", amends the Highway Bridge Program and the National Bridge Inspection Program to improve the safety of Federal-aid highway bridges, strengthens bridge inspection standards and processes; and increases investment in the reconstruction of structurally deficient bridges on the National Highway System.

Improves the Safety of Federal-aid Highway Bridges:

- **Risk-Based Prioritization of Reconstruction of Deficient Bridges.** Requires the Secretary to develop a system to assign a risk-based priority to repair, rehabilitate, or replace each structurally deficient or functionally obsolete bridge, establishing a new level of accountability in bridge repair and replacement by ensuring that States are investing in upgrading those bridges that are most critical to safety, as well as freight and passenger mobility.
- **Independent Review.** Requires the National Academy of Sciences to conduct an independent review of the Department of Transportation's process for assigning risk-based priorities under the Highway Bridge Program;
- **Institutes Bridge Management Systems.** Requires Federal Highway Administration ("FHWA" and States to establish bridge management systems designed to improve bridge management and targeting of limited bridge resources, as well as upgrading the inspection process and quality of data collected and reported to the National Bridge Inventory; and
- **Performance Plan.** Requires States to develop a five-year performance plan for the inspection of highway bridges and the reconstruction of

structurally deficient and functionally obsolete Federal-aid highway bridges. Requires the FHWA to approve each State's performance plan and the State to update the plan annually.

Strengthens Bridge Inspection Standards and Processes:

- **Requires Immediate Update of Bridge Inspection Standards.** Requires FHWA to immediately update National Bridge Inspection Standards and requires uniformity among States in conducting inspections and evaluations;
- **Requires Immediate Inspection of all Structurally Deficient Bridges.** Requires States to inspect structurally deficient bridges each year using the best practicable technologies and methods. Requires States to inspect all other bridges every two years. Authorizes FHWA to approve an extension of the biennial inspection requirement if granting the extension will increase the overall safety of the State's bridge inventory;
- **Requires States to Calculate the Load Rating for Structurally Deficient Bridges to Ensure that Maximum Weight Limits are Properly Posted.** Requires States to calculate the load rating for highway bridges and ensure that the safe load-carrying capacity for bridges is properly posted based on most recent inspection information;
- **Strengthens Training, Certification, and Qualification Requirements.** Strengthens inspector training by requiring that all highway bridge inspectors be trained and certified. Increases qualification requirements to ensure that licensed professional engineers approve inspections of highway bridges; and
- **Strengthens Annual FHWA Compliance Reviews.** Requires FHWA to strengthen its procedures for conducting annual compliance reviews of state inspections, state quality control and quality assurance procedures, load ratings, and weight limit postings of structurally deficient highway bridges.

Increases Investment for the Reconstruction of Structurally Deficient Bridges on the National Highway System:

- **Authorizes an Additional \$1 billion for Reconstruction of Structurally Deficient Bridges on the National Highway System.** Authorizes \$1 billion in FY2009 to reconstruct structurally deficient bridges on the NHS. These funds are in addition to funds authorized for the Highway Bridge Program under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users;
- **Funds are Distributed by Formula** pursuant to Federal-aid Highway apportionments under the Highway Bridge Program targeted to Federal-aid highway bridges. **No Congressional or Administration earmarks are allowed under the program;** and
- **Limits Transferability of Highway Bridge Funds.** The funds authorized by H.R. 3999, the National Highway Bridge Reconstruction and Inspection

Act of 2007, are not transferable to other Federal-aid highway programs. In addition, the bill provides that a State may transfer Highway Bridge Program funds to other Federal-aid Highway programs **only if** the State demonstrates to the satisfaction of the Secretary that it has no bridges on the National Highway System eligible for replacement.

Postponed Vote on Amendment to H.R. 3999:

1. **Childers (MS):** Would provide that none of the funds may be used to employ workers in violation of section 274A of the Immigration and Nationality Act. (10 minutes)

Quote of the Day

"The opposite of love is not hate, it's indifference." - Elie Wiesel

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